

State Department of Revenue

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**Issue**

New Tire Waste Management Fee – Tire Fee.

**Authority:** IC 13-11-2-140, 231, 245; IC 13-20-13-7 (Formerly IC 13-7-23-10.3); 329 IAC 12-2; Commissioner's Directive No. 16, May 1, 1994.

**IC 13-20-13-7. New and replacement tire fee.**

(a) A fee of twenty-five cents (\$0.25) is imposed on the sale of...:

(1) Each new tire that is sold at retail.

(2) Each new tire mounted on a new vehicle sold at retail.

(b) The person that sells the new tire... shall collect the fee...

(c) The person that collects a fee...

(1) shall pay the fees...

(A) to the department of state revenue; and (B) at the same time and in the same manner that the person pays the state gross retail tax collected...

[1996]

**Facts**

The taxpayer sells new tires at retail. The quality of each tire sold is guaranteed by a manufacturer's warranty issued at no extra charge. The taxpayer occasionally replaces a customer's tire as required by this warranty. The taxpayer makes no additional charge but does collect from the customer the 25¢ Tire Fee for each replacement tire.

**Question**

a. Is the taxpayer required to collect the Tire Fee on tires supplied under a manufacturer's warranty?

b. If no, is the taxpayer allowed a refund of the Tire Fee collected in error?

**Response**

a. The taxpayer is not required to collect the New Tire Waste Management Fee, "Tire Fee", on a new tire supplied under a manufacturer's warranty.

b. The Tire Fee, similar to the Sales Tax, is collected from the buyer by the seller who acts as an agent for the state. The Tire Fee may be refunded to the seller only upon satisfactory evidence that the Tire Fee has been refunded to the buyer.

## I. DEFINITIONS.

### **IC 13-11-2-140. "New tire".**

(a) [M]eans a tire that has never been mounted on a wheel of a vehicle.

(b) [T]he term does not include a retreaded tire. [1996]

### **IC 13-11-2-231. "Tire".**

(b) [M]eans a continuous solid or pneumatic rubber covering that is designed to encircle a wheel of a vehicle. [1996]

### **IC 13-11-2-245. "Vehicle".**

(d) [M]eans a motor vehicle and types of equipment, machinery, implements, or other devices used in transportation, manufacturing, agriculture, construction, or mining. The term does not include... :

(1) A lawn and garden tractor that is propelled by a motor of not more than twenty (20) horsepower.

(2) A semitrailer. [1996]

## II. NEW TIRES SUPPLIED UNDER A WARRANTY.

### A. Manufacturer's or Dealer's Warranty.

A new tire provided free of charge under a manufacturer's or dealer's warranty (written or implied) is not "sold at retail" as required by the Act. Such a tire is a replacement for a defective tire previously sold at retail.

A new replacement tire provided under a manufacturer's or a dealer's warranty for which any charge is made is subject to the Tire Fee.

### B. Customer Purchased Extended Warranty.

A tire provided to a customer under a customer purchased extended warranty is subject to the collection of the Tire Fee from the customer by the vendor of the extended warranty. The Tire Fee must be collected regardless any additional charge, or lack thereof, under the terms of the extended warranty.

## III. NEW TIRES PROVIDED IN LEASING BUSINESS.

A lease of new tires or the lease of a vehicle on which new tires are mounted is not subject to the collection of the Tire Fee from a lessee. Such new tires are subject to the Tire Fee when purchased by the lessor.

## IV. NEW TIRES MOUNTED ON SPECIALIZED VEHICLES.

New tires mounted on the following specialized vehicles are not subject to the Tire Fee:

A. competitive racing vehicles not licensed for highway use,

B. golf carts,

C. handicapped wheel chairs, and

D. semitrailer as defined in IC 13-11-2-245(d)(2) required to be pulled by a semitractor. Trailers which can be pulled by vehicles other than a semitractors do not qualify for the semitrailer exemption.

#### V. INTERSTATE COMMERCE.

A. New tires installed on new or used vehicles sold for immediate registration in another state are not subject to the Tire Fee.

B. New tires sold by an Indiana mail order seller and shipped to customers outside Indiana are not subject to the Tire Fee.

#### VI. SALES TO ORGANIZATIONS EXEMPT FROM CERTAIN TAXES.

Organizations which may qualify by statute for exemption from certain taxes are not exempt from the Tire Fee.